

Office of the Chapter 13 Standing Trustee

Isabel C. Balboa, Chapter 13 Standing Trustee[†]

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June 23, 2021

The Honorable Andrew B. Altenburg, Jr.
United States Bankruptcy Court
P.O. Box 2067
Camden, New Jersey 08102

**RE: Chapter 13 Bankruptcy
Case No. 19-28930 (ABA)
Debtor(s) Name: Clifford and Regina Carter**

Dear Judge Altenburg:

Please accept in lieu of a more formal response and in opposition to Debtors' Motion to Vacate Dismissal Order, which is returnable Tuesday, July 13, 2021, at 10:00 a.m.

On March 13, 2020, the Court entered an Order Confirming Debtors' Chapter 13 Plan at \$475 for five (5) months, then \$1,400 for fifty-five (55) months to pay administrative fees in the amount of \$4,360; cure pre-petition mortgage arrears to Ditech (12 Robin Lane) in the amount of \$22,451.58, pre-petition arrears to PHH Mortgage (504 Godfrey Ave) in the amount of \$9,737.49, pre-petition arrears to The Bank of New York (12 Robin Lane) in the amount of \$12,799.43; cramdown the judgment lien of James and Virginia Stiles to \$0.00; cramdown the judgment lien of Discover Bank to \$0.00; with a minimum base of \$1,750 to unsecured creditors who filed timely claims.

On June 15, 2020, Debtors filed a Modified Chapter 13 Plan After Confirmation to extend the length of plan from 60 months to 84 months under the CARES Act. On September 3, 2020, Debtors filed a Certification in Support of Modification of Chapter 13 Plan due to COVID-19. On October 28, 2020, an Order Confirming Modified Chapter 13 Plan was entered by the Court at \$5,700 paid to date, then \$691 for 72 remaining months.

On March 24, 2021, Debtors filed a Modified Chapter 13 Plan After Confirmation proposing to pay \$830 for eighty-four (84) months commencing June 1, 2020. The modified plan was filed to incorporate post-petition mortgage arrears due to NewRez for the property located at 12 Robin Lane totaling \$15,000. Debtors did not file a Certificate of Service providing evidence that all affected creditors received notice of the modified plan. The modified plan also should have proposed payments commencing April 2021 for 67 remaining months since the case was in its 17th month.

On June 1, 2021, Debtors filed another Modified Chapter 13 Plan After Confirmation proposing to pay \$1,000 for 84 months commencing June 1, 2020, which removes the post-petition arrears due to NewRez and states the plan is being modified to account for the Mortgage Forbearance Debtors were given for April, May, and June of 2020.

Debtors did not withdraw the previously filed modified plan, nor was a Certificate of Service filed to show service on all affected creditors. Debtors also did not file a Certification in Support of Modified Plan due to COVID-19 to offer an explanation as to how they were negatively affected by COVID-19. Debtors' modified plan is also unfeasible. The plan is proposing payments for 84 months starting June 1, 2020, which would total 91 months. The plan should be proposing payments to begin June 1, 2021, for 65 remaining months, for a total plan length of 84 months. Additionally, the Trustee cannot ascertain if Debtors were granted a Mortgage Forbearance for April, May, and June of 2020, or if Debtors meant to write 2021. No Notice of Mortgage Forbearance has been filed with the Court and Debtors have not provided any evidence of a Mortgage Forbearance Agreement.

For the reasons above, the Court entered an Order Dismissing Case on June 10, 2021, for failure to file a feasible Chapter 13 Plan. Debtors now come before the Court four days after the Order Dismissing Case was entered stating that they have filed a new modified plan and request to reinstate their case. A review of the most recent modified plan filed on June 11, 2021, reveals that it is essentially the mirror image of the modified plan filed on June 1, 2021 except that it omits the Part 4(d) information and lists the total attorney fees to be paid. Debtors still have not filed a Certification in Support of Modified Plan due to COVID-19, a Certificate of Service showing service on all affected creditors, and/or provided any evidence of a Mortgage Forbearance Agreement.

The Trustee further notes that this is not Debtors' first Chapter 13 Bankruptcy Petition. In fact, Debtors have filed for Chapter 13 Bankruptcy protection, with the assistance of Mark W. Ford, Esquire, a total of five (5) times. The following cases have previously been filed by Debtors:

Case No.	Date Filed	Date Dismissed	Reason for Dismissal
08-27065 JHW	9/8/2008	3/26/2010	Failure to submit plan payments to Trustee
10-19079 JHW	3/29/2010	1/27/2012	Failure to submit plan payments to Trustee
12-12542 JHW	2/1/2012	1/25/2016	Failure to submit plan payments to Trustee
13-12737 ABA	2/12/2013	11/28/2017	Failure to submit plan payments to Trustee

There has been no change since Debtors' case was dismissed on June 10, 2021. Debtors' performance in this and prior proceedings is evidence of their attempt to utilize the Court to hinder and delay payment to the creditors. As such, the Trustee requests that Debtors' motion be denied.

As always, please feel free to contact this office with any questions or concerns.

Respectfully submitted,

s/ William H. Clunn, III

William H. Clunn, III, Esquire
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Chapter 13 Standing Trustee

WHC/jpa

cc: Mark W. Ford, Esquire (Via CM/ECF and e-mail)
Clifford and Regina Carter (Via First Class Mail)